IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11/04/2003

CORAM

THE HONOURABLE MR. JUSTICE P.K. MISRA

WRIT PETITION No.43918 OF 2002
and
W.P.M.P.NO.64462 OF 2002

E. Thanigai Malai
S/o. Elumalai .. Petitioner

-Vs-

1. The Chief Executive Officer,
Chennai Metropolitan Development
Authority, Gandhi Irwin Road,
Egmore, Chennai 600 008.

2. The Member Secretary,
Chennai Metropolitan Development
Authority, Gandhi Irwin Road,
Egmore, Chennai 600 008. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.N. Chandru,
Senior Counsel for
Ms. Vanathi Srinivasan

For Respondents : Mr.N. Sampath

:J U D G M E N T

The facts giving rise to the present writ petition are as follows :-

Petitioner was running wholesale trade in perishable vegetables in Shop No.90. In September, 2001 the respondents issued public notification in newspaper for allotment of shops in Koyambedu Wholesale Market Complex. Pursuant to the aforesaid notice, the petitioner had applied and subsequently it was intimated by letter No.K2/8788/2001 dated 28.12.2001 stating that he had been allotted a shop of 2400 sq.ft in Block No.J, Shop No.097 at Rs.3,000/- per sq.ft. The petitioner was directed to pay the amount on or before 31.1.2002. The petitioner and several others subsequently filed

representation stating that the amount fixed was exorbitant and should be appropriately reduced. Since the representation had remained pending, the petitioner filed W.P.No.1878 of 2002 which was disposed of with a direction that the representation filed by the petitioner should be considered and disposed of. The said representation and the subsequent representation made by the petitioner were rejected on 25.4.2002. Thereafter the petitioner filed another representation dated 9.5.2002 seeking for appropriate reduction of the amount. By a letter dated 23.6.2002 such representation was rejected. However, it appears that subsequently the respondents have fixed the cost at Rs.2000/- per sq.ft. and have notified in the newspapers on 5.9.2002 for fresh allotment of shops. It is the contention of the petitioner that since he was already allotted the shop, the reduced price fixed by the respondents should be made applicable to such shop and the petitioner should not be deprived of the opportunity.

2. A counter affidavit was filed on behalf of the respondents stating that since the petitioner had not complied with the earlier direction, he cannot claim any right of allotment. It has been further stated that it would be open to the petitioner to apply, in which event, his application would be considered with other applicants.

3. It is of course true that on earlier occasion the petitioner had been allotted with a shop, but the petitioner had not deposited the amount fixed at that stage. The fact remains that several representations were made by the petitioner. Of course the representations were rejected, but subsequently the respondents themselves have reduced the price from Rs.3,000/- to Rs.2,000/- per sq.ft. In such view of the matter, the present prayer of the petitioner for execution of the lease deed in respect of the allotted shop on the basis of reduced price cannot be said to be unreasonable. When the respondents themselves have reduced the price, there is no reason as to why they should not extend the said benefit to the petitioner, who had already been allotted with a shop.

4. Merely because the petitioner had earlier filed representations or even the writ petition, he cannot be deprived of the benefit on the technical plea that the petitioner had not paid the amount fixed earlier and has forfeited his right. Such a contention appears to be hyper-technical, nay and churlish. Since the petitioner was earlier allotted Shop No.097 in Block J, the respondents are directed to execute necessary documents in respect of the said shop in favour of the petitioner, subject to the payment at the rate of Rs.2,000/- per sq. ft. as has been fixed by the respondents themselves. Since the petitioner was already selected earlier, it is unnecessary for the petitioner to undergo any fresh process of selection. This direction should be carried out within a period of two weeks from the date of deposit of the money by the petitioner. The petitioner is permitted to deposit the money within a period of six weeks from the date of communication of the order.

5. In the result, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes
Internet : Yes
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To
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Egmore, Chennai 600 008.

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Chennai Metropolitan Development
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